

## ORDER OF ADOPTION

The several Judges of the Delaware Circuit Court now hereby Adopt the following ADMINISTRATIVE RULES AND PROCEDURES for the Delaware Circuit Court, effective July 1, 2000.

### DELAWARE COUNTY BOARD OF JUDGES

Steven R. Caldemeyer, Judge  
Delaware Circuit Court No. 1

Richard A. Dailey, Judge  
Delaware Circuit Court No. 2

Robert L. Barnet, Presiding Judge  
Delaware Circuit Court No. 3

James J. Jordan, Judge  
Delaware Circuit Court No. 4

Wayne J. Lennington, Judge  
Delaware Circuit Court No. 5

### RULE 1. EXECUTIVE ORGANIZATION

**A. Board of Judges.** The five judges of the Delaware Circuit Court shall constitute the Board of Judges.

**B. Presiding Judge.** At the annual fall meeting of 2001, and every year following, the Board of Judges shall select from among themselves a presiding judge, whose one-year term shall begin the following January 1st. If available, the judge whose term as presiding judge has just ended shall serve as acting presiding judge when the presiding judge is unavailable. The presiding judge shall, as delegated by the Board of Judges:

1. Direct preparation of the agenda and minutes of the Board of Judges meetings;
2. Preside over the Board of Judges meetings and call special meetings as necessary;
3. Ensure efficient operation of the court system and compliance with these Rules;
4. Submit the annual budget for the court system, as approved by the Board of Judges, to include operation of the Delaware Circuit Court's Probation Department, public defenders and maintenance of an adequate law library;
5. Make appointments as specified in I.C. 33-4-12 (3);
6. Direct preparation and circulation of all annual reports for the court system and amendments to these Rules;
7. Maintain and distribute to the other judges policy manuals covering bond schedules, juror excuses, caseload allocation schedules and other matters pertaining to the day-to-day operation of the court system; and
8. Perform other duties as directed by the Board of Judges or as set out in these Rules.

**C. Quarterly Meeting.** The Board of Judges shall meet quarterly to make policy decisions, provide educational reports, and review operations of the court system. The Director of Court Services, hereinafter referred to as the "court administrator" will be required to attend these meetings and participate in discussions. The meeting will be held during the months of January, April, July, and October, on the 3rd Wednesday at Noon. A schedule of said meeting dates will be delivered each January by the Office of Court Services to each judge, chief adult probation officer, chief juvenile probation officer, and public defender.

**D. Fall Meeting.** Each fall (October) the Board of Judges and the court administrator shall attend an extended meeting to discuss:

1. Selection of the next presiding judge;
2. Implementation of the next annual budget as approved by the County Council;
3. Allocation of caseload;
4. The annual reports and performance of the Adult and Juvenile Probation Department, the Office of Court Services, and the Office of the Public Defender.

**E. Decisions.** Whenever an action of the entire court is required, including selection of a presiding judge under section 2 of I.C. 33-4-12, and adoption of rules under section 5 of said statute, the judges herein shall act in concert. If the judges disagree, the decision of the majority

of the judges controls. Local Rules shall be made by a vote of the majority of the Board of Judges.

## **RULE 2. CASELOAD ALLOCATION**

**A. Purpose.** First and foremost, the judicial officers of Delaware Circuit Court shall make thoughtful, timely, reasoned and just decisions. The allocation of caseload must reflect this purpose.

**B. Procedure.** The Board of Judges annually shall:

1. Review and assess literature from the Indiana State Bar Association, the American Bar Association, and the National Center for State Courts.
2. Review and consider suggestions made by the Delaware County Bar, the prosecuting attorney, the public defender, and the clerk of courts.
3. Review and analyze the statistics on current workload and caseflow within the Delaware Circuit Court.
4. Give due weight to the expertise of each judge, the stress associated with certain caseloads, and the goal of keeping each judge competent in all areas of the law.
5. Analyze whether the current allocation is providing excellent public service. There shall be a presumption in favor of the current allocation in order to preserve public confidence in the system, promote stability for the employees of the court system, and avoid inefficient use of personnel, time and resources to effectuate change.

**C. Implementation.** The Clerk of Delaware County shall maintain a filing system, by computer or otherwise, implementing the caseload allocation approved by the Board of Judges. The current allocation is contained in the Caseload Allocation of Addendum I to these Rules, which outlines the new caseload reallocation, effective July 1, 2000. If the caseload allocation is changed by order of the Board of Judges, the presiding judge shall forward the amended allocation to the Clerk of the Supreme Court and Court of Appeals, the State Court Administrator, the Clerk of Delaware Circuit Court, and the President of the Delaware County Bar Association.

**D. Individual Case Transfer.** Nothing in this Rule shall preclude the transfer of an individual case from one division of the Circuit Court to another division to promote efficiency and provide for timely resolution of cases. The transferring judge shall direct the Clerk to resubmit the case for transfer to a specific division as designated in the Local Rules of Criminal, Civil, and Small Claims Procedures, in Addendum II. This transfer procedure shall also be used when a judge disqualifies from a case pursuant to Trial Rule 79 (1) of the Indiana Rules of Trial Procedure. In all Orders of Transfer, provisions shall be made to ensure all applicable costs and fees be allocated to the proper cause of action.

## **Rule 3. LOCAL RULES OF PRACTICE**

**A. Purpose.** Local rules of practice and procedure now in existence and not inconsistent with Administrative Rules will continue to be in existence. Any new local rule will be promulgated pursuant to Trial Rule 81.

**B. Procedure.** Each year the Board of Judges shall review the local rules and shall consider changes and additions suggested by the Delaware County Bar, the prosecuting attorney, the public defender, and the clerk of courts. Further, the Board of Judges shall review and assess local rules adopted by other counties and jurisdictions.

**C. Adoption.** On July 1, 2000, and thereafter as amended, the Local Rules of Practice and Procedure for the Delaware Circuit Court are adopted and effective in all divisions of the Delaware Circuit Court. A copy of the Local Rules shall be forwarded to the Clerk of the Supreme Court and the Court of Appeals, the State Court Administrator, the Prosecuting Attorney, the Clerk, the Public Defender, and the President of the Delaware County Bar Association.

#### **RULE 4. BUDGETARY MATTERS**

**A. Budgets.** The Board of Judges shall direct the preparation of one unified budget for all divisions of the Court, the Probation Department, the Public Defender's Office and the Office of Court Services to be funded from the county general fund upon approval of the County Council, and a separate budget for Title IV-D Court. The Title IV-D Court shall remain separate and apart from the unified budget, except for the allocation in the unified budget for the public defender. The Board of Judges shall further direct the preparation of additional budgets for programs funded by User Fee income upon approval by the County Council.

**B. Annual Procedure.** Each year the Board of Judges shall establish a schedule of budget preparation, review and submission with the goal of providing for the effective functioning of the Court, as follows:

1. Each judge, the chief probation officers and the public defender shall submit written budget requests to the court administrator. These requests shall be specific and well-justified in light of the past year's expenditures and the future needs of the offices.

2. The Board of Judges shall meet to review the budget requests and may request further discussion from the chief probation officers, the court administrator, the public defender, or any other employee.

3. The Board of Judges shall establish budget priorities and shall cause the court administrator to prepare budget proposals for submission to the County Council.

**C. Allocation of Resources.** The Board of Judges shall establish guidelines for allocation of individual line items in the yearly budget approved by the County Council.

**D. Claims.** Claims shall be submitted to the Office of Court Services for approval by the court administrator and subsequent submission to the Auditor's Office. The court administrator may approve all proper payroll claims and may approve all purchase, travel and training claims not exceeding maximum amounts set by the Board of Judges from time to time. Any claim exceeding these guidelines must be submitted to the Board of Judges for approval.

**E. Transfers Within Budget Categories.** If the court administrator determines that a transfer is necessary within budget categories, the court administrator shall direct the Auditor's Office to perfect said transfer, following consultation with the presiding judge.

**F. Transfers Between Budget Categories.** If the court administrator determines that a transfer between budget categories is necessary, a written proposal shall be submitted to the presiding judge for approval prior to submission to the County Council.

**G. Additional Appropriation.** If the court administrator determines that an additional appropriation is necessary, a written proposal shall be submitted to the Board of Judges.

**H. Mandate.** No individual judge shall exercise mandates for the adequate provision of court services, personnel, or other expenditures without consultation with the entire Board of Judges.

#### **RULE 5. PERSONNEL**

**A. General Organization.** The Delaware Circuit Court employs personnel, as follows:

1. Court Divisions

*Official Court Reporter*

*Assistant Court Reporter*

*Court Secretary*

*Court Bailiff*

*Riding Bailiff*

*Public Defender*

*Master Commissioners*

*Probate Commissioner*

2. Adult Probation Department

*1 Chief Adult Probation Officer*  
*1 Assistant Chief Adult Probation Officer*  
*3 Adult Probation Officers*  
*1 Adult Probation Officer (shared by Divisions No. 1, No. 2 and No. 3)*  
*1 Adult Probation Officer (shared by Divisions No. 4 and No. 5)*  
*4 Secretaries (shared by Adult Probation and Public Defender Office)*  
 3. Juvenile Probation Department  
*1 Chief Juvenile Probation Officer*  
*1 Assistant Chief Juvenile Probation Officer*  
*5 Juvenile Probation Officers*  
*1 Secretary for Juvenile Probation*  
*1 User Fee Clerk for Juvenile Probation*  
 4. Office of Court Services  
*Court Administrator*  
*Administrative Assistant*  
*Secretary*  
 5. Office of Public Defender  
*1 Public Defender*  
*8 Deputy Public Defenders*  
*(Secretaries shared with Adult Probation)*  
*1 Investigator*

**B-1. Court Division.** The Delaware Circuit Court shall have five court divisions as follows: Delaware Circuit Court shall become Delaware Circuit Court No. 1; Delaware Superior Court No. 2 shall become Delaware Circuit Court No. 2; Delaware Superior Court No. 1 shall become Delaware Circuit Court No. 3; Delaware Superior Court No. 3 shall become Delaware Circuit Court No. 4; Delaware Superior Court No. 4 shall become Delaware Circuit Court No. 5. Pursuant to I.C. 33-4-12, Sec. 6.(a)(b)(1)(2), the judge of each court division shall have the sole authority to employ an official court reporter, an assistant court reporter, court secretary or secretaries, a court bailiff, riding bailiff/s, adult probation officer/s, and public defender/s, to serve at the pleasure of the judge. The official reporter of a division shall supervise the assistant court reporter and court bailiff, if so directed by the division's presiding judge.

The Board of Judges shall appoint and employ master commissioners and a probate commissioner to full time positions. The commissioners will not be entitled to practice law in any division of the court in Delaware County. The appointments will be for a two (2) year term. The duties for said probate commissioner will be as set out in I.C. 29-2-4-1 as follows: "...it shall be the duty of the probate commissioner of the circuit court in any county, duly appointed as by law provided, to hear evidence upon and report his finding to the judge of the circuit court of his county, upon all matters, probate, civil and otherwise, which may be referred to such probate commissioner by such judge of the circuit court..." The duties of the master commissioners will be as set out in the Order of Appointment Delineating Responsibilities of Master Commissioner.

**B-2. Court Divisions - Title IV-D Court.** The Board of Judges shall have the sole authority to employ Title IV-D Court personnel and to terminate their employment. All employees of the Title IV-D Court serve at the pleasure of the Board of Judges. A supervising judge will be selected amongst the judges. As directed by the Board of Judges, the supervising judge shall supervise employees of the Title IV-D Court, and may delegate certain supervisory responsibilities to the staff and other employees as set out in the Personnel Policy - Delaware County Public Defender's Office, Title IV-D Court and Juvenile Court of December 9, 1998.

**C-1. Adult Probation Department.** The Board of Judges shall have the sole authority to employ Probation Department personnel and to terminate their employment. All employees of the Probation Department serve at the pleasure of the Board of Judges as designated in Section B-1 of this Rule. The Board of Judges shall advertise the position of chief adult probation

officer and interview and screen applicants for said position. The chief adult probation officer shall advertise any other available probation position and interview and screen applicants as directed by the Board of Judges. The chief probation officer shall provide to the Board of Judges a written summary of qualified applicants, with a recommendation of three applicants to be hired by the Board of Judges.

**C-2. Adult Probation/Public Defender Staff.** The Board of Judges shall have the sole authority to employ the staff of the Adult Probation/Public Defender Office and to terminate their employment. All staff in the Adult Probation/Public Defender Office serve at the pleasure of the Board of Judges. As directed by the Board of Judges, the supervising judge shall supervise the staff of the Adult Probation/Public Defender Office and said supervising judge may delegate certain supervisory responsibilities to the staff as set out in the Personnel Policy - Delaware County Public Defender's Office, Title IV-D Court and Juvenile Court of December 9, 1998.

**C-3. Juvenile Probation Department.** The Board of Judges shall have the sole authority to employ Juvenile Probation Department personnel and to terminate their employment. All employees of the Juvenile Probation Department serve at the pleasure of the Board of Judges as designated in Section B-1 of this Rule. The Board of Judges shall advertise the position of Chief Juvenile Probation Officer, and interview and screen applicants for said position. The Chief Juvenile Probation Officer shall advertise any other available probation position and interview and screen applicants as directed by the Board of Judges. The Chief Juvenile Probation Officer shall provide to the Board of Judges a written summary of qualified applicants, with a recommendation of three applicants to be hired by the Board of Judges. As directed by the Board of Judges, the Chief Juvenile Probation Officer shall supervise employees of the Juvenile Probation Department, and may delegate certain supervisory responsibilities to the staff and other employees.

**D. Office of Court Services.** The Board of Judges shall have the sole authority to employ personnel in the Office of Court Services and to terminate their employment. The court administrator shall advertise an available position and interview and screen applicants as directed by the Board of Judges. The court administrator shall provide to the presiding judge a written summary of qualified applicants, with the court administrator's recommendation of three applicants to be hired by the Board of Judges. Employees of the Office of Court Services shall be supervised by the Director of Court Services/Court Administrator.

**E. Office of the Public Defender.** The employment and management of public defenders and their staff are subject to this Rule. The secretarial staff of the Public Defender Office shall follow rules set out in C-2 of this Rule.

**F. Personnel Policy.** Each Judge shall maintain a written personnel policy setting forth policies and procedures regarding the recruitment, selection, management, and termination of employees and the conditions and expectations of their employment. Each employee shall be given a copy of the personnel policy when employment begins.

**G. Termination.** If any employee of the Title IV-D Court or secretarial staff of the Adult Probation/Public Defender Office is not performing adequately, the designated supervising judge shall notify the Board of Judges in writing that termination of the employee is appropriate. If the Board of Judges concurs, the supervising judge shall be authorized to terminate the employee.

## **RULE 6. ADMINISTRATIVE MANAGEMENT**

**A. Management Team.** The court administrator, chief adult probation officer, public defender and presiding judge shall constitute a management team for administrative issues. The team coordinates personnel policy issues and fiscal issues, identifies issues or procedures that may impact outside specific divisions, maintains consistency on administrative issues among the divisions, and addresses other issues and projects within the discretion of the presiding judge.

## **RULE 7. OFFICE OF COURT SERVICES**

**A. Establishment and Purpose.** The Board of Judges has established an Office of Court Services to coordinate jury management records, statistics compilation, court security, financial planning and budget management, caseload management, and public information and education for the Delaware Circuit Court.

**B. Director of Court Services - Court Administrator.** As directed by the Board of Judges, the court administrator shall prepare and monitor the court's budgets; coordinate continuing education and training for court personnel; assist in researching, defining, developing and implementing new programs and procedures; attend and coordinate Board of Judges meetings, coordinate and implement court security plans and perform other duties as required.

**C. Other Personnel.** The Board of Judges, through the court administrator, shall hire additional administrative aides, clerical staff and bailiffs as needed to provide services to the Court.

**D. Financial Planning and Budget Management.** The Office of Court Services shall be responsible for the preparation, monitoring and coordination of all budgets of the Delaware Circuit Court. All required fiscal reports are prepared for review by the Board of Judges. This office serves as primary liaison with the Auditor's Office, and prepares and submits payroll, claims and employee status reports as required. This office oversees maintenance and service of equipment.

**E. Jury Management.** The Office of Court Services is responsible for all functions pertaining to the provision of jury panels for the divisions of the Delaware Circuit Court, pursuant to I.C. 33-4-11.

**F. Records Management.** The Office of Court Services is responsible for compiling and reporting all statistical information regarding caseloads and case movement in the divisions of the Delaware Circuit Court. A written report summarizing the activity operation of the court shall be delivered to the Board of Judges by March 31 of each year.

**G. Court Security.** The office will assist in obtaining security from the Sheriff's Department for the judges, staff, public, in courtrooms and in court offices, only upon request of court personnel; otherwise, the court bailiff will be responsible for making arrangements for security with the Sheriff's Department.

**H. Caseload Management.** The Office of Court Services is responsible for assessing caseload and workload distribution to the divisions of the Delaware Circuit Court, and provides supplemental staff when needed and/or available.

**I. Public Information and Education.** The Office of Court Services serves as liaison officer between the Delaware County Clerk and the Board of Judges. The Filing Office is the designated reception area of the Delaware County Justice Center. The daily court schedule is compiled and distributed by the Filing Office. All stamped and non-stamped mail is disseminated by the Filing Office. File stamps are maintained in the Filing Office to facilitate receipt of pleadings and correspondence for local attorneys. File stamps are also maintained in the individual court divisions. Mail receptacles are provided in the Office of Court Services for local attorneys to collect daily distribution of court documents. All questions regarding new filings or other procedures regarding the court shall be brought to the attention of the court administrator by the designated representative of the Delaware County Clerk.

## **RULE 8. PROBATION DEPARTMENT**

**A. Establishment and Purpose.** As required by Indiana law, the Board of Judges has established a Probation Department to serve all divisions of the Delaware Circuit Court. The Probation Department staff conducts interviews and investigations, prepares Pre-Sentence and Juvenile Reports, and oversees probationers and juveniles for compliance with court orders. These activities are conducted with the goals of rehabilitating offenders and protecting society.

Further, the Probation Department develops and maintains community-based alternate correction programs.

**B. Chief Adult Probation Officer.** As directed by the Board of Judges, the chief adult probation officer shall oversee the efficient operation of the adult probation department; assist in the hiring and discharge of personnel; evaluate and train department employees; compile statistics and create required reports; monitor budget expenditures and outline budget requests; maintain written policies and procedures for the department as provided by the Board of Judges; and perform other duties as required.

**B-1. Chief Juvenile Probation Officer.** As directed by the Board of Judges, the chief juvenile probation officer shall oversee the efficient operation of the juvenile probation department; assist in the hiring and discharge of personnel; evaluate and train department employees; compile statistics and create required reports; monitor budget expenditures and outline budget requests; maintain written policies and procedures for the department as provided by the Board of Judges; and perform other duties as required.

**C. Procedures.** The Probation Department shall maintain a written policy, procedure and training manual which sets forth the manner of operation of the department and the duties of each officer or staff member.

**D. Statistics and Reports.** The Probation Department shall maintain all statistical reports and records required by law and necessary for compliance with grant or program authorities. A written report summarizing the activity and operation of the Probation Department shall be delivered to the Board of Judges by March 31st of each year.

**E. Fees and Costs.** Court-ordered supervision fees shall be collected by designated staff pursuant to an established system of financial records management. This system, subject to State Board of Accounts audit, shall delineate special funds accounts, maintenance of daily collections and ledgers, and proper deposit and disbursement of funds. An internal audit will be conducted any time the collection clerk or staff responsible for the collection of fees terminates employment.

## **RULE 9. OFFICE OF THE PUBLIC DEFENDER**

**A. Establishment and Purpose.** The Board of Judges has established an Office of the Public Defender to represent indigent persons in proceedings threatening their liberty or other substantial interest.

**B. Independent Professional Judgment.** The public defender and the deputy public defenders shall provide the best possible representation to their clients, advancing all appropriate defenses and arguments under the law. No person shall interfere with, impede, or inhibit the exercise of the attorney's independent professional judgment.

**C. Public Defender.** The Board of Judges shall appoint and employ the public defender as the administrator of the Office of the Public Defender to serve at the pleasure of the Board of Judges. The public defender shall supervise all employees of the office, report to the Board of Judges regularly, assist in the preparation of budget requests, maintain caseload rotation and statistical reports, submit a written annual report concerning the Office of the Public Defender, and perform such other duties as directed by the Board of Judges.

**D. Hiring.** The public defender shall interview, screen, and assess all applicants for any position in the Office of the Public Defender. For non-attorney positions, the public defender shall recommend in writing three applicants to the Board of Judges. Unless notified otherwise within three working days, the public defender is authorized to offer the position to the recommended applicant on behalf of the Board of Judges. For deputy public defender positions, the public defender shall provide to the Board of Judges a written summary of qualified applicants, with the public defender's recommendation of three applicants to be hired by the Board of Judges.

**E. Termination.** If any employee of the Office of the Public Defender is not performing adequately, the public defender shall notify the Board of Judges in writing that termination of the employee is appropriate. If the Board of Judges concurs, the public defender shall be authorized to terminate the employee.

**F. Personnel Policy.** The Personnel Policy attached to these rules shall apply to all employees of the Office of the Public Defender, except as stated otherwise in this Rule 9. The public defender shall maintain personnel files on each employee, shall conduct an annual evaluation of each employee, and shall make available upon request a summary of all employee evaluations to the Board of Judges.

**G. Training.** The public defender and the deputy public defenders shall maintain continuing education as required by the INDIANA SUPREME COURT.

**H. Disciplinary Actions and Legal Actions.** The public defender or any deputy public defender that a client or a former client has taken or may take legal action against the attorney, the public defender shall immediately notify the Board of Judges of any such disciplinary action or legal action taken or to be taken against the public defender or any deputy public defender.

**I. Independent Legal Practice.** Legal practice independent from Delaware Circuit Court assigned cases must not interfere with the responsibilities of the public defender and the deputy public defenders to the Delaware Circuit Court.

**J. Caseload.** The caseload of the Office of the Public Defender shall include criminal cases, juvenile cases, civil commitment cases, termination of parental rights cases, CHINS cases, probation revocation and modification cases, appeals, and other cases as determined by the Board of Judges.

1. Assignment and Rotation. The public defender and deputy public defender shall continue to be assigned to a specific division of the Delaware Circuit Court. In the event assignment to a different division is required, the public defender will make such assignment as requested by any judge.

**K. Annual Report.** The public defender shall prepare an annual written report summarizing the activities of the Office of the Public Defender, outlining the operation of the office, and incorporating statistics on the caseload. This report shall be delivered to the Board of Judges by the public defender by February 1st of each year and shall cover the preceding calendar year.

## **RULE 10. COOPERATIVE COURT PROGRAMS**

**A. Purpose.** Pursuant to I.C. 33-4-12, Sec. 5(b), the purpose of the Cooperative Court Program is to develop cooperative efforts with other courts for establishing and administering shared programs and facilities.

**B. Assignment and Development.** The Board of Judges shall assign one member of the Board and other appropriate court personnel to a committee to develop Cooperative Court Programs, to include but not be limited to, cooperative programs concerning:

1. Family services (mediation, counseling and evaluation services);
2. Criminal services (treatment services, information exchange, probation transfer and supervision, public defender services);
3. Public education (production of educational materials and programs);
4. Utilization of Judicial Resources.

**C. Reports.** A judge assigned to a regional court program committee shall report regularly to the Board of Judges on the status and progress of the committee and shall seek input from and provide reports to, the Delaware County Council and the Delaware County Commissioners.

**(END OF ADOPTION)**

---

## **COURT SCHEDULING June 30, 2000**

The Judges of the Delaware Circuit Court hereby issue the following Order in relation to the scheduling of court cases:

### **Circuit Court No. 1.** (amendment to Order issued January 23, 1995)

1. Criminal hearings shall commence on Mondays at 9:00 a.m.; and on Thursdays at 9:00 a.m.
2. Criminal jury trials will commence on Mondays at 8:30 a.m., unless otherwise noted.
3. Matters involving an inmate being transported from the custody of the Department of Correction in relation to Post Conviction Relief, Sentence Modification, or otherwise, shall be heard on Thursdays at 9:00 a.m. to avoid any difficulty in transporting.
4. Civil jury trials will commence on Wednesdays or Thursdays at 8:30 a.m.

### **Circuit Court No. 2.**

1. Criminal hearings shall commence on Mondays at 9:00 a.m. and Thursdays at 1:30 p.m.
2. Criminal jury trials will commence on Mondays at 8:30 a.m.
3. Matters involving an inmate being transported from the custody of the Department of Correction in relation to Post Conviction Relief, Sentence Modification, or otherwise, shall be heard on Thursdays at 1:30 p.m. to avoid any difficulty in transporting.
4. Civil jury trials will commence on Wednesdays or Thursdays at 8:30 a.m.

### **Circuit Court No. 3.**

1. Criminal hearings shall commence on Mondays at 1:30 p.m. and Thursdays at 9:00 a.m.
2. Criminal jury trials will commence on Mondays or Wednesdays at 8:30 a.m.
3. Matters involving an inmate being transported from the custody of the Department of Correction in relation to Post Conviction Relief, Sentence Modification, or otherwise, shall be heard on Thursdays at 9:00 a.m. to avoid any difficulty in transporting.
4. Civil jury trials will commence on Mondays or Wednesdays at 8:30 a.m.

### **Circuit Court No. 4.**

1. Criminal hearings shall commence on Mondays at 9:00 a.m. and 1:30 (bond reductions, bench trials, misc.) and Wednesdays at 9:00 a.m. and 1:30 p.m.
2. Criminal jury trials will commence on Fridays at 8:30 a.m.
3. Matters involving an inmate being transported from the custody of the Department of Correction in relation to Post Conviction Relief, Sentence Modification, or otherwise, shall be heard on Wednesdays at 1:30 p.m. to avoid any difficulty in transporting.
4. Civil jury trials will commence on Wednesdays, Thursdays, or Fridays at 8:30 a.m.

### **Circuit Court No. 5**

1. Criminal hearings shall commence on Mondays at 9:00 a.m. and 1:30 p.m.; and Tuesdays at 9:00 a.m. and 1:30 p.m. Criminal pre-trial conferences will be held on Thursdays at 1:30 p.m.
2. Criminal jury trials will commence on Thursdays at 8:30 a.m.
3. Matters involving an inmate being transported from the custody of the Department of Correction in relation to Post Conviction Relief, Sentence Modification, or otherwise, shall be heard on Tuesdays at 1:30 p.m. to avoid any difficulty in transporting.
4. Civil jury trials will commence on Tuesdays or Wednesdays at 8:30 a.m.

A court calendar will be provided one day in advance, daily, to the Sheriff's Department by the Office of Court Services. Any changes made after distribution, the court staff will notify the Sheriff's Office.

**(END OF DOCUMENT - COURT SCHEDULING)**

---

**Local Rule 12-99**  
**Public Defender/Secretarial Fees**  
**(Amendment to Local Rule 12-98)**

Comes now the Circuit Court, Superior Court No. 1, Superior Court No. 2, and Superior Court No. 3 of Delaware County, Indiana, and hereby adopt the following local rule for the payment of services rendered by public defenders, special public defenders, and secretaries for the preparation of appeals and for indigent representation, all effective January 1, 2000:

**Section 1**

**Public Defender Fees**

- (1) In Court time for special public defenders, the amount of \$50.00 per hour. Supporting documentation required.
- (2) Out of Court time for special public defenders, the amount of \$40.00 per hour. Supporting documentation required.
- (3) The base fee for an appeal for public defenders is \$2,000.00 for trial before the court or by jury.
- (4) The base fee for an appeal of sentencing or revocation of probation is set at \$750.00.

**Murder Cases**

In Addition to the annual salary of a public defender and in order to fairly compensate counsel for all preparation and actual days spent in trial, the following fees will be approved:

- (1) Trial of one week or less, up to \$4,000.00 as additional compensation for lead counsel. Co-counsel will be compensated up to \$2,500.00.
- (2) Trial of two weeks or less, up to \$5,000.00 as additional compensation for lead counsel. Co-counsel will be compensated up to \$3,000.00.
- (3) Trial of up to three weeks or less, up to \$6,000.00 as additional compensation for lead counsel. Co-counsel will be compensated up to \$3,500.00.

A trial attorney fee ordered paid pursuant to this schedule would be in addition to any appropriate attorney fee paid to prosecute an indigent appeal.

A petition for attorney fees shall have attached thereto an itemized Bill of particulars. Mileage for filing of appeals shall be calculated at \$.28 per mile.

**Capital Murder Cases**

- (1) Compensation will be paid pursuant to applicable rule or statute and by contract with designated attorney.

**Class A Felony Trials**

Class A felony cases resulting in trial and presented by a public defender may be additionally compensated up to \$4,000.00. A request for payment together with an itemized Bill of Particulars should be submitted to the presiding judge of the Delaware county Court system. The presiding judge will recommend to the trial judge of the case an appropriate fee.

**Investigator Fees Murder Cases**

On a case by case review, the undersigned reserve the right to grant additional investigator fees to public defender investigators in murder cases.

**Section II**

**Secretarial Fees**

**REVISED 1/2003**

## **Local Rules of Small Claims Practice and Procedure June 30, 2000**

The following Local Rule regarding small claims practice and procedure is now adopted by the undersigned Judges of Delaware County, and, therefore, submitted for approval to the INDIANA SUPREME COURT, this \_\_\_\_\_ day of June, 2000.

**A. Scope and Jurisdiction.** These rules shall apply to all small claims proceedings in the Delaware Circuit Court No. 4 and Delaware Circuit Court No. 5 having jurisdiction over small claims as defined by relevant Indiana statutes. The plaintiff shall be required to pay a \$35.00 filing fee.

**B. Execution of Documents.** Pursuant to T.R. 9.2(H), original documents, including but not limited to the Notice of Claim, Affidavits, Petitions for Citation, and Motions for Proceedings Supplemental, require signatures that are made with express, implied, or apparent authority and not forged or stamped.

**C. Communications with the Court.** Any matter communicated to the Court, outside the courtroom, must be in writing and signed by the communicating party. Each communication should contain the cause number of the case, and a copy should be sent to all opposing parties.

**D. Scheduling.**

**1. Delaware Circuit Court No. 4:** Upon the filing of a complaint, an initial hearing shall be scheduled by the Clerk of the Court. At the initial hearing, the defendant will be expected to admit or deny liability of the claim.

If the defendant fails to appear at an initial hearing, a judgment may be entered upon proof of service. If the plaintiff fails to appear at the initial hearing, the Court may dismiss the action without prejudice.

If the defendant appears and admits liability, a Pre-Trial Settlement may be signed and filed by both parties.

If the defendant appears and denies liability, the Court shall set the matter for a bench trial and notify all parties involved.

**2. Delaware Circuit Court No. 5:** Upon the filing of a complaint, an initial hearing shall be scheduled by the Court staff. Parties are expected to be fully prepared for trial at the time of the initial hearing in the event the defendant denies liability.

**E. Attorney Fees.** A party requesting payment of attorney fees shall present to the Court a written affidavit detailing the time spent, services rendered, and hourly rate requested.

**F. Continuances.** A party may be granted a continuance for good cause shown upon filing a written motion signed by the moving party.

**G. Judgments.** A Default Judgment may be filed upon proof of service, and an Affidavit of Non-Military Service and Competency must be filed at that time.

**H. Proceedings Supplemental.** After a judgment has been entered but not paid, a party may file a Motion for Proceedings Supplemental and an Order to Appear in Court and Answer as to Wages, Assets, Property, and Income. The Clerk will provide the proper forms and a hearing date.

If additional efforts are needed to collect a judgment, the Clerk will provide an instruction sheet and additional forms to the parties.

**I. Bankruptcy Stay.** Any party seeking a stay of the proceedings as a result of a bankruptcy proceeding should file a copy of such Bankruptcy Petition and a showing that the debt was scheduled with the Court. The Court at that time will calendar the matter for one (1) year to set the matter for dismissal if, in fact, the party has not been discharged in bankruptcy.

**J. Release of Judgment.** After a judgment has been paid in full, it is the responsibility of the plaintiff to file a Release of Judgment with the Court.

**K. Dismissals.** A claim, counter-claim, or cross-claim may be dismissed by the party filing a written pleading at any time before judgment is entered. If a counter-claim or cross-claim has been filed, the dismissal of the original claim will not result in the cancellation of the hearing until the counter-claim or cross-claim has been dismissed.

**L. Small Claims Manual.** The complete Small Claims Manual is available for review at the Clerk's Office and is also on the Internet at <http://ecicnet.org/~dcclerk>.

**(END OF DOCUMENT - Local Rules of Small Claims Practice and Procedure)**

---

**Local Rules Regarding Domestic Relation Cases  
(Amendment to Local Rule 1990, 1997-1 AND 1997-2)**

The following Local Rule regarding domestic relation cases is now adopted by the undersigned Judges of Delaware County and, therefore, submitted for approval to the INDIANA SUPREME COURT, this 30th day of June, 2000.

A. Petition for Modification. No Petition for Modification of Custody, Child Support, or Spousal Maintenance will be entertained unless a full year has elapsed from the date of the last decision of the court pertaining to custody, support or maintenance, except on showing by a verified petition requesting a hearing and setting forth in detail that an extreme emergency exists.

B. Order of Modification. Commencing on July 1, 2000, all Recorded Judgment Orders on Petitions to Modify Support Payments shall be accompanied with a change in support payment sheet. The Recorded Judgment Order submitted for signature WILL NOT be signed without a change in support sheet completed and attached, or proof that the same has been done with the Support Clerk of Delaware County. With the above procedure being followed, any arrearage to be determined will be computed automatically on the support records and will allow the attorneys access to said arrearage immediately.

A. Termination of representative Capacity. Upon the entry of a final Decree of Dissolution of Marriage, Legal Separation, paternity, or an order of permanent modification of any custody, visitation, or child support, the representative capacity of all attorneys appearing on behalf of any party shall be deemed terminated upon:

1. An order of withdrawal granted pursuant to the Indiana Rules of Trial Procedure; or
2. The expiration of time within which an appeal of such order may be preserved or perfected pursuant to the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure; or
3. The conclusion of any appeal of such order commenced pursuant to the Indiana Rules of Trial Procedure or the Indiana Rules of Appellate Procedure.

B. Service of Pleadings. The service of any post dissolution pleadings upon any party not represented by counsel pursuant to Paragraph A above shall be made upon that person pursuant to the Indiana Rules of Trial Procedure.

C. Courtesy Copy. Any copy served upon the withdrawn attorney will be deemed to be a matter of professional courtesy only.

Adopted and Respectfully Submitted for Approval this 30th day of June, 2000.

**(END OF DOCUMENT - Local Rules Regarding Domestic Relation Cases  
(Amendment to Local Rule 1990, 1997-1 AND 1997-2)**

---

**Local Rule 01-2002**

The following Local Rule regarding domestic relation cases is now adopted by the undersigned Judges of the Delaware County Circuit Court System as follows:

**Decree of Dissolution of Marriage:**

Upon filing a Decree of Dissolution of Marriage, either by Summary Decree or after a contested hearing, the attorney submitting the Decree shall provide a Decree designated for distribution to the Court Administrator. The attorney shall provide this Decree in addition to all other copies required for the Court file, the order book, and the parties. The purpose of this Rule is to terminate all restraining orders and protective orders not granted in the Final Decree

Adopted and Orderd this 16th day of January, 2002

***(END OF DOCUMENT – Local Rule 1-2002)***

---

**Local Rule 01(1) - 2002**

**Class D Felony (Additional Charges)**

We, the Judges of the Delaware Circuit Court, hereby make the following rule regarding class D felonies:

Defendants with pending class D felonies who are later charged with a more serious class of felony in Delaware County will be subject to transfer to the Court having jurisdiction of the more serious felony.

All of Which is So Ordered this 16th day of January, 2002.

***(END OF DOCUMENT – Local Rule 1 (1)-2002)***

---

**Local Rule 01(2) - 2002**

**Public Defender Appointments (Indigent Determination)**

We, the Judges of the Delaware Circuit Court, hereby make the following rule regarding the appointment of public defenders in certain cases:

Following a preliminary appointment of pauper counsel, the Office of the Public Defender may conduct further inquiry upon the eligibility of Defendants receiving court-appointed counsel. In the event the Public Defender determines that a Defendant may not be eligible for a court-appointed attorney, this issue may be brought to the attention of the court by way of a Motion to Withdraw.

All of Which is So Ordered this 16th day of January, 2002.

***(END OF DOCUMENT – Local Rule 1(2)-2002)***

---

**In Re: Court Reporters**  
**Local Rule 09-2002**

The Board of Judges of the Delaware County Circuit Court, Indiana hereby adopt the following local rule by which court reporter services shall be governed.

**Section One. Definitions**

The following definitions shall apply under this local rule:

(1) A *court reporter* is a person who is specifically designated by a court to perform the official court reporting services for the court including preparing a transcript of the record.

(2) *Equipment* means all physical items owned by the court or other government entity and used by a court reporter in performing court reporting services. Equipment shall include, but not be limited to, telephones, copy machines, fax machines, computer hardware, software programs, disks, tapes and any other device used for recording, storing and transcribing electronic data.

(3) *Work space* means that portion of the court's facilities dedicated to each court reporter, including but not limited to actual space in the courtroom and any designated office space.

(4) *Page* means the page unit of transcript which results when a recording is transcribed in the form required by Indiana rule of Appellate Procedure 7.2.

(5) *Recording* means the electronic, mechanical, stenographic or other recording made as required by Indiana Rule of Trial Procedure 74.

(6) *Regular hours worked* means those hours which the court is regularly scheduled to work during any given work week.

(7) *Gap hours worked* means those hours worked in excess of the regular hours worked but hours not in excess of forty (40) hours per work week.

(8) *Overtime hours worked* means those hours worked in excess of forty (40) hours per work week.

(9) *Work week* means a seven (7) consecutive day week that consistently begins and ends on the same days through the year, i.e. Sunday through Saturday, Wednesday through Tuesday, Friday through Thursday.

(10) *Court* means the particular court for which the court reporter performs services. Court may also mean all of the courts of record in Delaware County.

(11) *County indigent transcript* means a transcript that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court. The county indigent transcript will also include any requests from the local Prosecutor's Office.

(12) *State indigent transcript* means a transcript that is paid for from state funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(13) *Private transcript* means a transcript that is paid for by a private party, but not limited to a deposition transcript.

(14) *Expedited* means transcripts which are requested to be completed within three (3) days.

(15) *Rush/Overnight* means transcripts which are requested to be completed within twenty-four (24) hours.

**Section Two. Salaries and Per Page Fees.**

(1) Court Reporters shall be paid an annual salary for time spent working under the control, direction and direct supervision of their supervising court during any regular work hours, gap hours or overtime hours. The supervising court shall inform the court reporter the manner in which the court reporter is to be compensated for gap and overtime hours, by receiving compensatory time off regular work hours.

(2) The **maximum** per page fee a court reporter may charge for the preparation of a county indigent transcript shall be **\$4.00, including cover pages; \$1.00** per page for a copy of a

transcript provided to the Public Defender's Office or the Prosecutor's Office; and **.50¢ per exhibit**. The fee for an "expedited" transcript (preparation within three (3) days) on a county case shall be **\$6.00** per page. The court reporter shall submit a claim voucher to the supervising judge for approval of payment by the county for the preparation of any county indigent transcripts.

(3) If a court reporter is requested to prepare an indigent "rush/overnight" transcript (preparation within twenty-four (24) hours or less), the per page fee shall be **\$7.00**.

(4) The **maximum** per page fee a court reporter may charge for the preparation of a State indigent transcript shall be **\$4.00; and, \$1.00** per page for a copy of a transcript; and **.50¢ per exhibit**. The fee for a State Public Defender requested "expedited" transcript (preparation within three (3) days) on a State indigent case will in no event exceed **\$6.00** per page. If a court reporter is requested by the State Public Defender to prepare an indigent "rush/overnight" transcript (preparation within twenty-four (24) hours or less), the per page fee shall be **\$7.00**.

(5) The **maximum** per page fee a court reporter may charge for the preparation of a private transcript shall be **\$4.25** with the court reporter being responsible for expenses as provided in Section Four (4), Paragraph Two (2). The fee for an "expedited" transcript (preparation within three (3) days) on a private case will be agreed upon between the court reporter and party requesting the same but in no event may exceed **\$6.25** per page. The court reporter may charge up to **\$1.00 per page** for a copy of a transcript (*including a disc copy*), or **\$1.00 per page** for an exhibit with the court reporter being permitted to use the court system's copy machine outside of regular work hours. If so requested by a party, an "original copy" generated from the computer may be reproduced and charged at **one-half (½)** the transcript fee.

(6) If a court reporter is requested to prepare a private "rush/overnight" transcript (preparation within twenty-four (24) hours or less), the maximum per page fee shall be **\$7.25**. (7)

An additional labor charge approximating the hourly rate based upon the court reporter's annual fixed compensation as reflected in the court budget, may be charged for the time spent binding the transcript and exhibit binders. The labor charge shall not exceed two (2) hours, unless unusual circumstances permit the submission of a recapitulation enumerating the hours spent beyond the two (2) hour base.

(8) The Index and Table of Contents pages shall be charged at the per page rate being charged for transcript preparation either for county, state or private cases.

(9) A minimum fee up to \$35.00 per transcript shall be allowed for transcripts under eight (8) pages.

(10) The court reporter or designated court employee shall report, at least on an annual basis, all transcript fees received for the preparation of either county indigent, state indigent or private transcripts to the Indiana Supreme Court Division of State Court Administration. The reporting shall be made on forms prescribed by the Division of State Court Administration.

(11) The preparation of *any* transcript for payment shall not be performed during regular work hours, including but not limited to, transcribing, copying, or other functions related to the compilation of the transcript.

### **Section Three. Private Practice**

(1) If a court reporter elects to engage in private practice through the recording of a deposition and/or preparing of a deposition transcript, all such private practice work shall be conducted outside of regular work hours and the court reporter **will not** be allowed to utilize the court equipment to do so.

### **Section Four. Supplies**

(1) All supplies for *County or State indigent transcripts*, i.e. **transcript paper, binders and copy paper shall be provided through the court system's office supply account.**

(2) All supplies for *Private transcripts*, i.e. **transcript paper, binders and copy paper shall be the responsibility of the court reporter**. The court reporter **will not** be allowed to charge for the cost of such supplies due to the allotted fee approved herein for the preparation of a private transcript.

It is Agreed among the Judges of the Delaware County Court System that the foregoing Local Rule shall be adopted this 27th day of September, 2002, and shall prevail over prior Rules for Court Reporters.

***(END OF DOCUMENT – Local rule 9-2002 – Court Reporter)***

---

## **Local Rules of Civil Practice and Procedure**

### **Local Rule 4-2003**

(Amendment to Local Rule July 1, 2000)

The following local rule regarding selection of special judges where a special judge does not accept a civil case under Trial Rule 79(D), (E), or (F), is now adopted by the undersigned judges of the Delaware Circuit Court, in conjunction with the other Courts of Administrative District 6 as established by Administrative Rule 3(A)(6), and submitted for approval to the INDIANA SUPREME COURT this 23rd day of April, 2003.

**A. Subdistricts Identified.** To make the most effective use of judicial resources by using close proximity of the judges, Administrative District 6 shall be divided into three (3) subdistricts, the judges in each subdistrict constituting the panel for assignment in the event a *special judge* fails to accept a civil case under Trial Rule 79(D), (E), or (F), except that the following juvenile judges of the whole district shall constitute the panel for assignment in juvenile cases: Honorable Bruce C. Bade of Blackford Circuit Court; Honorable Robert L. Barnet of Delaware Circuit Court No. 3; Honorable Jack L. Brinkman of Madison Superior Court; Honorable Marianne Vorhees of Delaware Circuit Court No. 1; Honorable Jan L. Chalfant of Randolph Circuit Court; Honorable Richard A. Dailey of Delaware Circuit Court No. 2; Honorable Mary Willis of Henry Circuit Court; and Honorable Michael D. Peyton of Henry Superior Court.

The subdistricts are : Grant, Blackford, Madison, Henry, Delaware, Jay and Randolph Counties.

In submitting panels under Trial Rule 79 (F), judges in Delaware County shall name only regular or senior judges from this county.

**B. Assignment - Civil.** Any assignment required shall be made by the Delaware County Clerk on a rotating basis in consecutive order from the following individuals:

1. In Delaware, Jay and Randolph Counties: Honorable Robert L. Barnet; Honorable Marianne Vorhees; Honorable Jan L. Chalfant; Honorable Richard A. Dailey; Honorable Wayne J. Lennington; Honorable Joel D. Roberts; Honorable John Feick; and Honorable Peter Haviza.

The list of regular judges in the subdistrict containing Delaware County may be supplemented by senior judges of the whole district.

In no event shall an individual be chosen whose name was placed on the panel submitted to the litigants under Trial Rule 79 (F).

In those cases where a judge has accepted an out-of-county special judge appointment under Trial Rule 79 (D), (E), and (F), and the case has not been transferred to such judge's court under Trial Rule 79 (M), the court bailiff shall notify the Delaware County Clerk, and such clerk shall exempt such judge from assignment for a case under Trial Rule 79 (H).

**C. Annual Review.** This local rule shall be subject to annual review by the regular judges of this administrative district.

**D. Ineligibility.** In the event no judge is eligible to serve as special judge in a case, or special circumstances warrant selection of a special judge by the INDIANA SUPREME COURT, the Delaware County Clerk shall certify this fact to the INDIANA SUPREME COURT for the appointment of a special judge, pursuant to Trial Rule 79 (K).

Adopted and Respectfully Submitted for Approval, this 23rd day of April, 2003.

**(END OF DOCUMENT – Local Rules of Civil Practice and Procedure)**

---

In Re: The Business of the Delaware Circuit Court  
**REALLOCATION AND REASSIGNMENT OF CASES**  
**June 1, 2003**

Pursuant to I.C. 33-5-12.1(b), and the abolishment of the Superior Courts for Delaware County, effective July 1, 2000, all matters pending in said courts shall be transferred to the Delaware Circuit Court in accordance with the venue requirements prescribed under Rule 75 of the Indiana Rules of Trial Procedure. These matters have the same effect as if originally filed in the Delaware Circuit Court.

WHEREAS, the Board of Judges has revised the allocation of case assignments; and

WHEREAS, the Board of Judges is authorized to transfer cases between judges and divisions of the court; and

WHEREAS, the Board of Judges has determined that the efficient administration of justice is better served by a reallocation of certain types of cases.

NOW, THEREFORE, the Board of Judges of the Delaware Circuit Court, by its Presiding Judge, Orders and Directs the following:

(A) That the Clerk of Delaware County, upon direction of a transfer of any case holding a judgment, garnishment, bail bond, or otherwise, shall within said transfer, perfect the necessary changes to provide for the efficient and accurate accounting of all payments made toward any judgment rendered, including, but not limited to, garnishment payments made through a garnishee defendant, the release of judgments, bail bonds or other matters pertaining to said original cause and the transfer therein. In the perfection of the within Order, the Clerk shall notify interested parties to the action and the garnishee defendant.

(B) Cases filed prior to June 1, 2003, will remain in the court of origin, unless otherwise Ordered.

(C) Effective June 1, 2003, allocation of cases will be as follows:

**Circuit Court No. 1**

Criminal: Felonies which include MR (Murder), FA (class A felony), FB, (class B felony), FC, (class C felony), FD (class D felony), MC (Miscellaneous Criminal), and Misdemeanors in conjunction with Murder, or A, B, C, or D felonies.

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - excluding tax sales), ES, EU, GU, TR (Probate)

**Circuit Court No. 2**

Criminal: Felonies which include MR (Murder), FA (class A felony), FB, (class B felony), FC, (class C felony), FD (class D felony), MC (Miscellaneous Criminal), and Misdemeanors in conjunction with Murder, or A, B, C, or D felonies.

Juvenile: JP (Juvenile Paternity), JD (Juvenile Delinquency), JS (Juvenile Status), JM (Juvenile Miscellaneous), JC (Juvenile CHINS), JT (Juvenile Termination)

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - excluding tax sales)

**Circuit Court No. 3**

Criminal: Felonies which include MR (Murder), FA (class A felony), FB, (class B felony), FC, (class C felony), FD (class D felony), MC (Miscellaneous Criminal), and Misdemeanors in conjunction with Murder, or A, B, C, or D felonies.

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - excluding tax sales), MH (Mental Health)

**Circuit Court No. 4**

Criminal: Felonies which include MR (Murder), FA (class A felony), FB, (class B felony), FC, (class C felony), FD (class D felony) and MC (Miscellaneous Criminal),  
Misdemeanors in conjunction with Murder, A, B, C, or D felonies.

Juvenile: NONE

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - excluding tax sales) PO (Protective Order), RS (Reciprocal Support), SC (Small Claims)

**Circuit Court No. 5**

Criminal: Felonies which include MR (Murder), FA (class A felony), FB, (class B felony), FC, (class C felony), FD (class D felony) and MC (Miscellaneous Criminal),  
Misdemeanors in conjunction with Murder, A, B, C, or D felonies.

Juvenile: NONE

Civil: PL (Civil Plenary), CC (Civil Collection), CT (Civil Tort), DR (Domestic Relations), MF (Mortgage Foreclosure), AD (Adoption), MI (Miscellaneous - **INCLUDING** tax sales), PO (Protective Order), SC (Small Claims) ES, EU, GU, TR (Probate)

(D) Assignment of cases as heretofore set out will continue to be subject to all Local Rules regarding non-discretionary assignment of felony and misdemeanor cases.

All of Which is So Ordered, this 20th day of May, 2003.

***(END OF DOCUMENT – Reallocation and reassignment of Cases)***

---

**LOCAL RULE 5-2003 (AS AMENDED)**

**DISCOVERY AND MOTIONS IN LIMINE IN CRIMINAL CASES**

The following Local Rule regarding criminal cases filed in Circuit Courts 1, 2, 3, 4, and 5 is now adopted by the Board of Judges:

**DISCOVERY**

In all Murder, Class A, Class B, Class C, and Class D Felony cases, unless relieved by court order, the Prosecuting Attorney shall, within thirty (30) days after the initial hearing in any criminal action filed against the Defendant, furnish the attorney for the Defendant the following:

1. The names and addresses of persons whom the Prosecuting Attorney intends to call as witnesses at the trial, together with their relevant written or recorded statements.
2. Any written or recorded statements and any summaries of oral statements made by the accused herein or any statements of others which contain a declaration of the accused.
3. Those portions of the Grand Jury minutes which contain statements of witnesses whom the Prosecutor intends to call and directly examine at trial, which statements are probably within the control of the prosecution and which statements will relate to matters covered in the witness' testimony in this case, for the purpose of cross-examination and impeachment of such witness' credibility.
4. The relevant testimony which is reduced to writing of persons whom the Prosecutor intends to call as a witness at the trial, but who did not testify before the Grand Jury.
5. Any reports or statements of experts made in connection with this case, including results of physical or mental examination and of scientific tests, experiments, or comparisons.
6. Any books, papers, documents, photographs or tangible objects, which the Prosecuting Attorney intends to use in the trial or which were obtained from or belong to the accused or his family.
7. Any record or prior criminal convictions of persons whom the Prosecutor intends to call as witnesses at the trial.
8. Any declarations against interest made by the Defendant.
9. Any evidence the Prosecutor might have, favorable to the Defendant.
10. Copies of any photographs which the prosecution has in its possession which it intends to introduce as evidence.
11. Any description of the Defendant's conduct, if any, that the prosecution intends to introduce as an implied admission.
12. Any promises, rewards, or inducements provided to prosecution witnesses or defense witnesses.
13. Any victim's statement that was recorded or memorialized and that is under the State's control.
14. Any and all medical reports in appropriate cases.
15. That portion of police reports containing substantially verbatim statements of witnesses.
16. The criminal record of the Defendant, including arrests and convictions.
17. Evidence of other crimes, wrongs, or acts pursuant to Evidence Rule 404(b).

The State shall also allow counsel for the Defendant to examine any and all physical evidence, whether or not the prosecution intends to present the evidence at trial, within thirty (30) days after the initial hearing.

In all Murder, Class A, Class B, Class C, and Class D Felony cases, unless relieved by court order, counsel for the Defendant shall, within thirty (30) days after receiving the discovery from the State of Indiana in any criminal action filed against the Defendant, furnish the attorney for the State of Indiana the following:

1. Any reports or results or testimony relative thereto, of physical or mental examination or of scientific tests, experiments or comparisons, or any other reports or statements of experts pertaining to this case.

2. A summary of any special or statutory defense(s), which Defendant intends to make at a hearing or trial in this cause.

3. Names and last known addresses of persons Defendant intends to call as witnesses, together with their relevant written or recorded statements, including memoranda reporting or summarizing their oral statements, and any record of prior criminal convictions known to the Defendant.

4. Any books, papers, documents, photographs, or tangible objects Defendant intends to use as evidence or for impeachment at a hearing or trial.

***If Defendant is not represented by an attorney, the above requirements do not apply, and the parties must file written motions with the Court to request discovery.***

### **MOTIONS IN LIMINE**

In all Murder, Class A, Class B, Class C, and Class D Felony cases, unless relieved by court order, the following items are excluded from evidence, and the Court prohibits any reference at trial to the following. In addition, counsel and all witnesses may not refer to, mention, or testify about the following:

1. The statutory penalty provided for the offense(s) charged, or any and all included offenses.

2. The fact that the Defendant failed to make a statement either orally or in writing at the time of his arrest.

3. Any questioning of the Defendant, or any statements which Defendant may have made while he was in the custody of the police, absent proof beyond a reasonable doubt that the statements were made freely and voluntarily and after a knowing and intelligent waiver of rights by the Defendant.

4. Any previous arrest or detention of the Defendant which did not result in a conviction, or any other alleged offenses, purportedly involving Defendant, in which he was neither arrested nor charged.

5. Any prior conviction of the Defendant, except those which may be used for the purpose of impeachment.

The rule regarding Motions in Limine shall apply to cases in which the Defendant is not represented by an attorney.

Adopted and Ordered this 16th day of July, 2003.

***(END OF DOCUMENT Local rule 5-2003 (As Amended))***

---

**Amended Local Rules of Criminal Practice and Procedure  
August 27, 2003**

The following Amended Local Rule regarding the assignment of criminal cases is now adopted by the undersigned Judges of Delaware County and, therefore, submitted for approval to the INDIANA SUPREME COURT, this 27th day of August, 2003.

**A. Assignment of Cases.** In order to provide for the non-discretionary assignment of felony and misdemeanor cases beginning August 27th, 2003, the Circuit Court of Delaware County, Indiana, now adopts this local rule.

All felonies charging Murder, class A felony, class B felony, class C felony, or class D felony will be assigned to the appropriate court based upon the month in which the offense is alleged to have occurred. The following monthly rotation is now established for the general jurisdiction of courts for Delaware County:

Circuit Court No. 1 - the first month (June, 2003);

Circuit Court No. 2 - the second month;

Circuit Court No. 3 - the third month;

Circuit Court No. 4 - the fourth month;

Circuit Court No. 5 - the fifth month;

*Thereafter, the monthly rotation among the courts will continue in this sequence until further order.*

In the event a misdemeanor is also charged in conjunction with a more serious offense, such additional charge shall be assigned to the same court having jurisdiction of the more serious offense.

In the event of multiple offenses, the date of the earliest offense alleged in the charging document shall control the assignment.

From and after August 31, 2003, all criminal cases filed in any division of Delaware County shall be filed in compliance with this rule and in the appropriate court as heretofore set out.

**B. Transfer and Reassign.** Any judge of a division of the Delaware Circuit Court, by appropriate Order entered in the Record of Judgments and Orders, may transfer and reassign to any of the other judges of a division of the Delaware Circuit Court in the county with jurisdiction to hear the charged offense any pending case subject to acceptance by the receiving court.

**C. Refiling by the State.** In the event the State of Indiana dismisses a case and later chooses to refile that case, the case shall be assigned to the court from which dismissal was taken.

In the event the State of Indiana dismisses a case, any subsequent related cases filed against such defendant within ninety (90) days shall be assigned to the court from which dismissal was taken.

**D. Additional Related Charges.** In the event additional related charges are filed against a criminal defendant subsequent to the assignment of the case, all such additional related charges shall be assigned to the court of initial assignment.

**E. Additional Unrelated Charges.** In the event additional unrelated charges are filed against a criminal defendant subsequent to any other pending case assignment, the case or cases shall be assigned to the appropriate court based upon the month in which the offense is alleged to have occurred.

**F. Reassignment.** In the event a change of judge is granted or it becomes necessary to assign another judge in a criminal proceeding in Delaware Circuit Court No. 1, Delaware Circuit Court No. 2 or Delaware Circuit Court No. 3, the rule following shall apply:

1. Upon the granting of a change of judge or upon any order of reassignment by the Judge of the Delaware Circuit Court No. 1, the case will be reassigned to the Delaware Circuit Court

No. 2. Upon the granting of a change of judge or upon any order of reassignment by the Judge of the Delaware Circuit Court No. 2, the case will be reassigned to the Delaware Circuit Court No. 3. Upon the granting of a change of judge or upon any order of reassignment by the Judge of the Delaware Circuit Court No. 3, the case will be reassigned to the Delaware Circuit Court No. 4. Upon the granting of a change of judge or upon any order of reassignment by the judge of the Delaware Circuit Court No. 4, the case will be reassigned to Delaware Circuit Court No. 5. Upon the granting of a change of judge or upon any order of reassignment by the judge of the Delaware Circuit Court No. 5, the case will be reassigned to Delaware Circuit Court No. 1.

In the event any judge of Delaware County to whom a case is assigned under this Section D, is unable or unwilling to serve due to current caseload or for any other reason, or in the further event that a successor judge is required, the case shall be reassigned by the clerk to another judge in Delaware County, excepting therefrom the judge from which the original change was requested and the judge who is unable or unwilling to serve. The clerk shall make the reassignment to the next qualified judge having appropriate jurisdiction in consecutive order as follows: Delaware Circuit Court No. 1, Delaware Circuit Court No. 2, Delaware Circuit Court No. 3, Delaware Circuit Court No. 4, and Delaware Circuit Court No. 5.

**G. Master Commissioners.** Each master commissioner shall, on a weekend rotating basis, be on call to the Delaware County Sheriff's Department for the approval of probable cause. The schedule will be determined by a designated master commissioner. Said rotation schedule will be provided by the designated master commissioner to other master commissioners, the Sheriff's Department, public defender, and the court administrator.

Adopted and Respectfully Submitted for Approval this 27th day of August, 2003.  
***(END OF DOCUMENT Amended Local Rules of Criminal Practice and Procedure)***

---

**LOCAL RULE 10-2003 (1)**

**DISCOVERY AND MOTIONS IN LIMINE  
IN JUVENILE DELINQUENCY CASES**

The following Local Rule regarding juvenile delinquency cases filed in Circuit Courts 1, 2, 3, 4, and 5 is now adopted by the Board of Judges:

**DISCOVERY**

In all filed juvenile delinquency cases, unless relieved by court order, the prosecuting attorney shall, within thirty (30) days after the initial hearing in any delinquency action filed against the child, furnish the attorney for the child the following:

1. The names and addresses of persons whom the prosecuting attorney intends to call as witnesses at the fact-finding hearing, together with their relevant written or recorded statements.
2. Any written or recorded statements and any summaries of oral statements made by the child herein or any statements of others which contain a declaration of the child.
3. Those portions of the Grand Jury minutes which contain statements of witnesses whom the prosecutor intends to call and directly examine at the fact-finding hearing, which statements are probably within the control of the prosecution and which statements will relate to matters covered in the witness' testimony in this case, for the purpose of cross-examination and impeachment of such witness' credibility.
4. The relevant testimony which is reduced to writing of persons whom the prosecutor intends to call as a witness at the fact-finding hearing, but who did not testify before the Grand Jury.
5. Any reports or statements of experts made in connection with the case, including results of physical or mental examination and of scientific tests, experiments, or comparisons.
6. Any books, papers, documents, photographs or tangible objects, which the prosecuting attorney intends to use at the fact-finding hearing or which were obtained from or belong to the child or his family.
7. Any record or prior criminal convictions of persons whom the prosecutor intends to call as witnesses at the fact-finding hearing.
8. Any declarations against interest made by the child.
9. Any evidence the prosecutor might have, favorable to the child.
10. Copies of any photographs which the prosecution has in its possession which it intends to introduce as evidence.
11. Any description of the child's conduct, if any, that the prosecution intends to introduce as an implied admission.
12. Any promises, rewards, or inducements provided to prosecution witnesses or defense witnesses for the child.
13. Any victim's statement that was recorded or memorialized and that is under the State's control.
14. Any and all medical reports in appropriate cases.
15. That portion of police reports containing substantially verbatim statements of witnesses.
16. The delinquency record of the child, including arrests and adjudications.
17. Evidence of other crimes, wrongs, or acts pursuant to Evidence Rule 404(b).

The State shall also allow counsel for the child to examine any and all physical evidence, whether or not the prosecution intends to present the evidence at the fact-finding hearing, within thirty (30) days after the initial hearing.

In all filed juvenile delinquency cases, unless relieved by court order, counsel for the child shall, within thirty (30) days after receiving the discovery from the State of Indiana in any delinquency action filed against the child, furnish the attorney for the State of Indiana the following:

1. Any reports or results or testimony relative thereto, of physical or mental examination or of scientific tests, experiments or comparisons, or any other reports or statements of experts pertaining to this case.

2. A summary of any special or statutory defense(s), which the child intends to make at a hearing in this cause.

3. Names and last known addresses of persons the child intends to call as witnesses, together with their relevant written or recorded statements, including memoranda reporting or summarizing their oral statements, and any record of prior delinquency adjudication known to the child.

4. Any books, papers, documents, photographs, or tangible objects the child intends to use as evidence or for impeachment at a hearing.

***If the child is not represented by an attorney, the above requirements do not apply, and the parties must file written motions with the Court to request discovery.***

### **MOTIONS IN LIMINE**

In all filed delinquency cases, unless relieved by court order, the following items are excluded from evidence, and the court prohibits any reference at the fact-finding hearing to the following. In addition, counsel and all witnesses may not refer to, mention, or testify about the following:

1. The fact that the child failed to make a statement either orally or in writing at the time of his arrest.

2. Any questioning of the child, or any statements which the child may have made while he was in the custody of the police, absent proof beyond a reasonable doubt that the statements were made freely and voluntarily and after a knowing and intelligent waiver of rights by the child.

3. Any previous arrest or detention of the child which did not result in a delinquency adjudication, or any other alleged offenses, purportedly involving the child, in which he was neither arrested nor charged.

4. Any prior delinquency adjudication of the child, except those which may be used for the purpose of impeachment.

***The rule regarding Motions in Limine shall apply to cases in which the Child is not represented by an attorney.***

ADOPTED AND ORDERED this 21st day of October, 2003.

***(END OF DOCUMENT – Discovery and Motions in Limine in Juvenile Delinquent Cases)***

---

## **LOCAL RULE 10-2003 (2)**

### **DISCOVERY AND MOTIONS IN LIMINE IN CHINS CASES**

The following Local Rule regarding CHINS cases filed in Circuit Courts 1, 2, 3, 4, and 5 is now adopted by the Board of Judges:

#### **DISCOVERY**

In all filed CHINS cases, unless relieved by court order, the attorney for the Delaware County Office of Family and Children (hereinafter **DFC**) shall, within thirty (30) days after the initial hearing in any CHINS action filed, furnish the attorney for the parent(s), guardian(s) or custodian(s) (hereinafter **PGC**) the following:

1. The names and addresses of persons whom the **DFC** intends to call as witnesses at the fact-finding hearing, together with their relevant written or recorded statements.
2. Any written or recorded statements and any summaries of oral statements made by the **PGC** herein or any statements of others which contain a declaration of the **PGC**.
3. The relevant testimony which is reduced to writing of persons whom the **DFC** intends to call as a witness at the fact-finding hearing.
4. Any reports or statements of experts made in connection with the case, including results of physical or mental examination and of scientific tests, experiments, or comparisons.
5. Any books, papers, documents, photographs or tangible objects, which the **DFC** intends to use in the fact-finding hearing or which were obtained from or belong to the **PGC**.
6. Any record or prior criminal convictions of persons whom the **DFC** intends to call as witnesses at the fact-finding hearing.
7. Any declarations against interest made by the **PGC**.
8. Any evidence the **DFC** might have, favorable to the **PGC**.
9. Copies of any photographs which the **DFC** has in its possession which it intends to introduce as evidence.
10. Any description of the **PGC's** conduct, if any, that the **DFC** intends to introduce as an implied admission.
11. Any promises, rewards, or inducements provided to **DFC** witnesses or **PGC** witnesses.
12. Any victim's statement that was recorded or memorialized and that is under the **DFC's** control.
13. Any and all medical reports in appropriate cases.
14. That portion of police reports containing substantially verbatim statements of witnesses.
15. The criminal record of the **PGC**, including arrests and convictions.
16. Evidence of other crimes, wrongs, or acts pursuant to Evidence Rule 404(b).

The **DFC** shall also allow counsel for the **PGC** to examine any and all physical evidence, whether or not the **DFC** intends to present the evidence at the fact-finding hearing, within thirty (30) days after the initial hearing.

In all filed CHINS cases, unless relieved by court order, counsel for the **PGC** shall, within thirty (30) days after receiving the discovery from the **DFC** in any CHINS action filed against the **PGC**, furnish the attorney for the **DFC** the following:

1. Any reports or results or testimony relative thereto, of physical or mental examination or of scientific tests, experiments or comparisons, or any other reports or statements of experts pertaining to this case.
2. A summary of any special or statutory defense(s), which the **PGC** intends to make at a hearing or fact-finding in this cause.
3. Names and last known addresses of persons the **PGC** intends to call as witnesses, together with their relevant written or recorded statements, including memoranda reporting or summarizing their oral statements, and any record of prior criminal convictions known to the **PGC**.

4. Any books, papers, documents, photographs, or tangible objects the *PGC* intends to use as evidence or for impeachment at a hearing or trial.

***If the PGC is not represented by an attorney, the above requirements do not apply, and the parties must file written motions with the Court to request discovery.***

#### **MOTIONS IN LIMINE**

In all filed CHINS cases, unless relieved by court order, the following items are excluded from evidence, and the Court prohibits any reference at fact-finding hearing to the following. In addition, counsel and all witnesses may not refer to, mention, or testify about the following:

1. Any questioning of the *PGC*, or any statements which the *PGC* may have made while he was in the custody of the police, absent proof beyond a reasonable doubt that the statements were made freely and voluntarily and after a knowing and intelligent waiver of rights by the *PGC*.

2. Any previous arrest or detention of the *PGC* which did not result in conviction, or any other alleged offenses, purportedly involving the *PGC*, in which he was neither arrested nor charged.

3. Any prior conviction of the *PGC*, except those which may be used for the purpose of impeachment.

***The rule regarding Motions in Limine shall apply to cases in which the PGC is not represented by an attorney.***

ADOPTED AND ORDERED this 21st day of October, 2003.

***(END OF DOCUMENT Discovery and Motions in Limine in CHINS Cases)***

---

## **In Re: Public Defender Secretarial Fees**

### **Local Rule 10-2003**

The Board of Judges of the Delaware County Circuit Court, Indiana hereby adopt the following local rule (amending Local Rule 1-2003) by which public defender secretarial services shall be governed, effective October, 15, 2003.

#### **Section One. Definitions**

The following definitions shall apply under this local rule:

(1) *Equipment* means all physical items owned by the court or other government entity and used by a public defender secretary in performing public defender secretarial services. Equipment shall include, but not be limited to, telephones, copy machines, fax machines, computer hardware, software programs, discs, tapes and any other device used for recording, storing and transcribing electronic data.

(2) *Work space* means that portion of the court's facilities dedicated to each county employed public defender secretary, including but not limited to actual space in any designated office space.

(3) *Page* means the page unit of a brief which results when prepared in the form required by Indiana Rules of Appellate Procedure.

(4) *Regular hours worked* means those hours which the public defender's office is regularly scheduled to work during any given work week.

(5) *County indigent brief* means a brief that is paid for from county funds and is for the use on behalf of a litigant who has been declared indigent by a court.

(6) *Expedited* means briefs which are requested to be completed within three (3) days.

(7) *Rush/Overnight* means briefs which are requested to be completed within twenty-four (24) hours.

#### **Section Two. Salaries and Per Page Fees.**

(1) Public Defender Secretaries shall be paid an annual salary for time spent working under the control, direction and direct supervision of the Board of Judges during any regular work hours.

(2) Maximum per page fee public defender secretaries may charge for the preparation of county indigent appearances, Notice of Appeal, Appellant's Case Summary, motions, cover pages, briefs, petitions, additional authorities, authorizations, affidavits, cover letters, and verifications shall be **Four Dollars (\$4.00)** per page.

(3) Maximum per page fee for an "expedited" brief or petition (preparation within three (3) days) on a county case shall be **Six Dollars (\$6.00)** per page.

(4) The **maximum** per page fee for a "rush/overnight" brief or petition (preparation within twenty-four (24) hours or less) shall be **Seven Dollars (\$7.00)** per page.

(5) a. Appellate Rule 50 (B) shall be followed in regard to the appendix in a criminal appeal.

b. The **maximum** per page fee a public defender secretary may charge shall be **twenty-five cents (\$.25)** for copies. Service of Documents, Appellate Rule 24 (A) shall apply.

c. The **maximum** number of copies charged for Briefs on a criminal appeal shall be limited to ten (10) copies.

d. Copies produced on behalf of the public defender or client shall not be charged to the court.

(6) a. Appellate Rule 50 (A) shall be followed specifically in regard to the appendix in pauper civil cases.

b. The **maximum** per page fee of **twenty-five cents (\$.25)** for copies in civil cases shall be charged for those items needed as set out in Appellate Rule 50 (A). Service of Documents, Appellate Rule 24 (A) shall apply.

c. The **maximum** number of copies charged for Briefs on civil appeal shall be limited to ten (10) copies.

d. Only where it may apply in the appeal, copies of exhibits to be attached to the appendix as specified in Appellate Rule 50 (A), shall be charged at fifty cents (\$.50) PER exhibit.

e. Copies produced on behalf of the public defender or the client shall not be charged to the court.

(7) An additional labor charge approximating the hourly rate based upon the public defender secretary's annual fixed compensation as reflected in the court budget, may be charged for the time spent verifying, by the county public defender's office, the appendix (as outlined in Appellate Procedure Rule 50-B (f)). The labor charge shall NOT exceed three (3) hours, unless unusual circumstances permit the submission of a recapitulation enumerating the hours spent beyond the three (3) hour base.

(8) An additional labor charge approximating the hourly rate based upon the public defender secretary's annual fixed compensation as reflected in the court budget, may be charged for the time spent binding and numbering of the appendix. The labor charge shall NOT exceed two (2) hours, unless unusual circumstances permit the submission of a recapitulation enumerating the hours spent beyond the two (2) hour base.

(9) An additional labor charge approximating the hourly rate based upon the public defender secretary's annual fixed compensation as reflected in the court budget, may be charged for the time spent binding of the brief. The labor charge shall not exceed two (2) hours, unless unusual circumstances permit the submission of a recapitulation enumerating the hours spent beyond the two (2) hour base.

(10) An additional labor charge approximating the hourly rate based upon the public defender secretary's annual fixed compensation as reflected in the court budget, may be charged for the time spent preparing for shipment and delivery to appropriate place for shipment. The labor charge shall not exceed one (1) hour, unless unusual circumstances permit the submission of a recapitulation enumerating the hours spent beyond the one (1) hour base.

(11) An additional labor charge approximating the hourly rate based upon the public defender secretary's annual fixed compensation as reflected in the court budget, may be charged for the time spent traveling to and from the Clerk of the Court of Appeals. The labor charge shall not exceed three (3) hours, unless unusual circumstances permit the submission of a recapitulation enumerating the hours spent beyond the three (3) hour base.

(12) A charge per mile for mileage at the current rate set by the county may be charged for one-hundred thirty (130) miles round trip to and from the Clerk of the Court of Appeals.

(13) The preparation of *any* brief for payment shall not be performed during regular work hours, including but not limited to, transcribing, copying, or other functions related to the compilation of the brief.

### **Section Three. Supplies**

(1) All supplies for *county indigent appeals and depositions*, i.e. transcript paper, binders and copy paper shall be provided through the court system's office supply account for the public defender secretaries.

It is Agreed among the Judges of the Delaware County Court System that the foregoing Local Rule shall be adopted this 17th day of December, 2003, and shall prevail over prior Rules for Public Defender Secretaries.

**(END OF DOCUMENT – Public Defender Secretarial Fees)**

---

## **ORDER ESTABLISHING BAIL SCHEDULE**

(This Schedule Replaces June 30, 2000 Bail Schedule)

We, the Judges of the Circuit Court of Delaware County, Indiana, enter the following order establishing the amount of bail for those persons charged with the commission of criminal offenses by Information, arrest, Probable Cause or Indictment.

IT IS, THEREFORE, ORDERED, ADJUDGED AND DECREED, by the Court that effective immediately and until further order of the court, bail shall be as follows for all individuals charged with the commission of criminal offenses in the Delaware Circuit Court.

### **I. Felonies**

- A. For murder or attempted murder, no bail is to be set except by the Court at initial hearing;
- B. For any person charged with being an habitual offender, bail is to be set at \$50,000.00;
- C. For any class A felony offense, bail shall be set at initial hearing;
- D. For any class B felony offense, bail shall be set at initial hearing;
- E. For any class C felony offense, bail shall be \$10,000.00; however, if the class C felony involves serious bodily injury, bail shall be set at initial hearing;
- F. For any class D felony offense, bail shall be \$5,000.00;
- G. For any case where the person charged has been previously convicted of a felony offense within the past five (5) years, bail shall be twice the amount otherwise specified in this section.

### **II. Misdemeanors**

- A. For class A misdemeanors, bail shall be \$2,500.00;
- B. For class B misdemeanors, bails shall be \$1,000.00.

### **III. Other Provisions**

#### **A. Intoxication**

No person shall be released by the Sheriff of Delaware County, regardless of the provisions of this Order, unless such person clearly manifests that they are in a state of sobriety at the time the provisions of this Order would otherwise permit release.

- 1. The Sheriff shall hold in custody any person who is under the influence of alcohol or controlled substances until such time it is determined, at the sheriff's discretion, that the individual may be safely released without danger to self or others.

#### **B. Domestic Violence**

A person arrested on a charge involving domestic violence shall not be released until twelve (12) hours has elapsed or until appearance in court, whichever is earlier. After twelve (12) hours, the person may post bail (1) pursuant to other sections of this Bail Order, and (2) if the person agrees in writing to initiate no contact with the victim. If the person charged refuses to sign such an agreement, they shall be held until brought to Court.

#### **C. Overweight Trucking Violations**

The bail schedule as set out in this Order shall not apply to overweight trucking violations. Bail for such offenses shall be convened by the provisions of I.C. 9-20-1, et seq.

#### **D. Double Bond**

For any case where the person charged is on bail on a pending charge, the bail shall be twice the amount of the bail otherwise required by this Order.

#### **E. Full Cash Bond**

When any person proposes to post a full bond in cash or by certified check and the Clerk's Office is not open for business, the sheriff shall accept the money or check and issue a receipt therefore to the person making the payment in that person's name or as they direct. Thereafter, as soon as is practicable, the sheriff shall deposit the money or check with the Clerk.

**F. Felony Arrests While on Probation or Parole**

Pursuant to I.C. 35-33-8-6, all adult persons, with any felony arrest, who are on probation or parole, shall not be released on the normal bond schedule, but should be brought before the Court at the earliest opportunity, and in no circumstances, should be held for longer than fifteen (15) days in jail without bond.

**G. 10% Cash Bond**

The Clerk may not accept a 10% cash deposit in lieu of the bond otherwise required herein, except upon express written Order of a judge. In the event such a bond is approved by the Court, the Clerk may retain as a service fee ten percent (10%) of the amount deposited when the bond is released at the conclusion of the case.

**H. Property Bond**

Pursuant to I.C. 35-33-8-3.2(a)(1)(c), an bond may be secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail. The Clerk shall not accept a property bond in lieu of a surety bond otherwise required herein, except upon express written Order of a judge.

**I. Amount of Bail on Warrant**

If the bail is set at a probable cause hearing, the amount of bail set by the judge shall be endorsed upon the arrest warrant.

**J. Release of Bond**

No cash bond may be released by the Clerk, except upon written Order of a judge after judgment has been entered and any fines and costs imposed by the Court have been paid and satisfied.

The Clerk of the Court is ORDERED to place a copy of this Order in the Record of Judgments and Orders of the Delaware Circuit Court.

All of Which is So Ordered, this 5th day of August, 2004.

**(END OF DOCUMENTS, DELAWARE COUNTY)**